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MR WEBSTER'S SPEECH ON MR EWING'S RESOLUTION

TO RESCIND THE TREASURY ORDER OF JULY 11,1836

Webster, Daniel

MR. WEBSTER'S SPEECH

ON

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TO

RESCIND THE TREASURY ORDER

OF JULY 11, 1836.

DELIVERED

IN THE SENATE OF THE UNITED STATES,

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SPEECH.

The Senate having again proceeded to the order of the day, which was the consideration of the following resolutions, heretofore moved by Mr. EWING, of Ohio:

Resolved by the Senate and House of Representatives, &c. That the Treasury order of the eleventh day of July, Anno Domini one thousand eight hundred and thirty-six, designating the funds which should be receivable in payment for public lands, be, and the same is hereby, rescinded.

Resolved, also, That it shall not be lawful for the Secretary of the Treasury to delegate to any person, or to any corporation, the power of directing what funds shall be receivable for customs, or for the public lands; nor shall he make any discrimination in the funds so receivable, between different individuals, or between the different branches of the public revenue.

Mr. WEBSTER addressed the Senate as follows:

Mr. President: The power of disposing of this important subject is in the hands of gentlemen, both here and elsewhere, who are not likely to be influenced by any opinions of mine. I have no motive, therefore, for addressing the Senate, but to discharge a public duty, and to fulfil the expectations of those who look to me for opposition, whether availing or unavailing, to whatever I believe to be illegal or injurious to the public interests. In both these respects, the Treasury order of the 11th of July appears to me objectionable. I think it not warranted by law, and I think it also practically prejudicial. I think it has contributed not a little to the pecuniary difficulties under which the whole country has been, and still is, laboring; and that its direct effect

on one particular part of the country is still more decidedly and severely unfavorable.

The Treasury order, or Treasury circular, of the 11th of July last, is addressed by the Secretary to the receivers of public money, and to the deposite banks. It instructs these receivers and these banks, *after the 15th day of August then next, to receive in payment of the public lands nothing except what is directed by existing laws, viz: gold and silver, and, in the proper cases, Virginia land scrip; provided that, till the 15th of December then next, the same indulgence heretofore extended, as to the kind of money received, may be continued, for any quantity of land not exceeding 320 acres, to each purchaser who is an actual settler or bona fide resident in the State where the sales are made.*

The exception in favor of Virginia scrip is founded on a particular act of Congress, and makes no part of the general question. It is not necessary, therefore, to refer farther to that exception. The substance of the general instruction is, that *nothing but gold and silver shall be received in payment for public lands;* provided, however, that actual settlers and *bona fide* residents in the States where the sales are made, may purchase in quantities not exceeding 320 acres each, and be allowed to pay as heretofore. But this provision was limited to the 15th day of December, which has now passed; so that, by virtue of this order, gold and silver are now required of *all* purchasers and for all quantities.

I am very glad that a resolution to rescind this order has been thus early introduced; and I am glad, too, since the resolution is to be opposed, that opposition comes early, in a bold, unequivocal, and decided form. The order, it seems, is to be defended as being both legal and useful. Let its defence, then, be made.

The honorable member from Missouri (Mr. Benton)

objects even to giving the resolution to rescind a second reading. He avails himself of his right, though it be not according to general practice, to arrest the progress of the measure at its first stage. This, at least, is open, bold, and manly warfare.

The honorable member, in his elaborate speech, founds his opposition to this resolution, and his support of the Treasury order, on those general principles respecting currency, which he is known to entertain, and which he has maintained for many years. His opinions some of us regard as altogether ultra and impracticable; looking to a state of things not desirable in itself, even if it were practicable; and, if it were desirable, as being far beyond the power of this Government to bring about.

The honorable member has manifested much perseverance and abundant labor, most undoubtedly, in support of his opinions; he is understood, also, to have had countenance from high places; and what new hopes of success the present moment holds out to him, I am not able to judge, but we shall probably soon see. It is precisely on these general and long-known opinions that he rests his support of the Treasury order. A question, therefore, is at once raised between the gentleman's principles and opinions on the subject of the currency, and the principles and opinions which have generally prevailed in the country, and which are, and have been, entirely opposite to his. That question is now about to be put to the vote of the Senate. In the progress, and by the termination of this discussion, we shall learn whether the gentleman's sentiments are, or are not to prevail, so far, at least, as the Senate is concerned. The country will rejoice, I am sure, to see some declaration of the opinions of Congress on a subject about which so much has been said, and which is so

well calculated, by its perpetual agitation, to disquiet and disturb the confidence of society.

We are now fast approaching the day when one administration goes out of office, and another is to come in. The country has an interest in learning, as soon as possible, whether the new administration, while it receives the power and patronage, is to inherit, also, the topics, and the projects, of the past; whether it is to keep up the avowal of the same objects and the same schemes, especially in regard to the currency. The order of the Secretary is prospective, and, on the face of it, perpetual. Nothing in or about it gives it the least appearance of a temporary measure. On the contrary, its terms imply no limitation in point of duration, and the gradual manner in which it is to come into operation shows plainly an intention of making it the settled and permanent policy of Government. Indeed, it is but now beginning its complete existence. It is only five or six days since its full operation has commenced. Is it to stand as the law of the land and the rule of the Treasury, under the administration which is to ensue? And are those notions of an exclusive specie currency, and opposition to all banks, on which it is defended, to be espoused and maintained by the new administration, as they have been by its predecessor? These are questions, not of mere curiosity, but of the highest interest to the whole country.

In considering this order, the first thing naturally is, to look for the causes which led to it, or are assigned for its promulgation. And these, on the face of the order itself, are declared to be "complaints which have been made of frauds, speculations, and monopolies, in the purchase of the public lands, and the aid which is said to be given to effect these objects by excessive bank credits, and dangerous, if not partial facilities

through bank drafts and bank deposites, and the general evil influence likely to result to the public interest, and especially the safety of the great amount of money in the Treasury, and the sound condition of the currency of the country, from the further exchange of the national domain in this manner, and chiefly for bank credits and paper money."

This is the catalogue of evils to be cured by this order. In what these frauds consist, what are the monopolies complained of, or what is precisely intended by these injurious speculations, we are not informed. All is left on the general surmise of fraud, speculation, and monopoly. It is not avowed or intimated that the Government has sustained any loss, either by the receipt of bank notes which proved not to be equivalent to specie, or in any other way. And it is not a little remarkable that these evils of fraud, speculation, and monopoly, should have become so enormous and so notorious, on the 11th of July, as to require this Executive interference for their supression, and yet that they should not have reached such a height as to make it proper to lay the subject before Congress, although Congress remained in session until within seven days of the date of the order. And what makes this circumstance still more remarkable, is the fact that, in his annual message at the commencement of the same session, the President had spoken of the rapid sales of the public lands as one of the most gratifying proofs of the general prosperity of the country, without suggesting that any danger whatever was to be apprehended from fraud, speculation, or monopoly. His words were: "Among the evidences of the increasing prosperity of the country, not the least gratifying is that afforded by the receipts from the sales of the public lands, which amount, in the present year, to the unexpected sum of eleven

millions." From the time of the delivery of that message down to the date of the Treasury order, there had not been the least change, so far as I know, or so far as we are informed, in the manner of receiving payment for the public lands. Every thing stood, on the 11th of July, 1836, as it had stood at the opening of the session, in December, 1835. How so different a view of things happened to be taken at the two periods, we may be able to learn, perhaps, in the further progress of this debate.

The order speaks of the "evil influence" likely to result from the further exchange of the public lands into "paper money." Now, this is the very language of the gentleman from Missouri. He habitually speaks of the notes of all banks, however solvent, and however promptly their notes may be redeemed in gold and silver, as "paper money." The Secretary has adopted the honorable member's phrases, and he speaks, too, of all the bank notes received at the land offices, although every one of them is redeemable in specie, on demand, but as so much "paper money."

In this respect, also, sir, I hope we may know more as we grow older, and be able to learn whether, in times to come, as in times recently passed, the justly obnoxious and odious character of "paper money" is to be applied to the issues of all the banks in all the States, with whatever punctuality they redeem their bills. This is quite new, as financial language. By paper money, in its obnoxious sense, I understand paper, issued on credit alone, without capital, without funds assigned for its payment, resting only on the good faith and the future ability of those who issue it. Such was the paper money of our revolutionary times; and such, perhaps, may have been the true character of the paper of particular institutions since. But the notes of banks of competent capi-

tals, limited in amount to a due proportion to such capitals, made payable on demand in gold and silver, and always so paid on demand, are paper money in no sense but one; that is to say, they are made of paper, and they circulate as money. And it may be proper enough for those who maintain that nothing should so circulate but gold and silver, to denominate such bank notes "paper money," since they regard them but as paper intruders into channels which should flow only with gold and silver. If this language of the order is authentic, and is to be so hereafter, and all bank notes are to be regarded and stigmatized as mere "paper money," the sooner the country knows it the better.

The member from Missouri charges those who wish to rescind the Treasury order with two objects: first, to degrade and disgrace the President, and, next, to overthrow the constitutional currency of the country.

For my own part, sir, I denounce nobody; I seek to degrade or disgrace nobody. Holding the order illegal and unwise, I shall certainly vote to rescind it; and, in the discharge of this duty, I hope I am not expected to shrink back, lest I should do something which might call in question the wisdom of the Secretary, or even of the President. And I hope that so much of independence as may be manifested by free discussion and an honest vote is not to cause denunciation from any quarter. If it should, let it come.

As to an attempt to overthrow the constitutional currency of the country, if I were now to enter into such a design, I should be beginning, at rather a late day, to wage war against the efforts of my whole political life. From my very first concern with public affairs, I have looked at the public currency as a matter of the highest interest, and hope I have given sufficient proofs of a disposition at all times to maintain it sound and secure,

against all attacks and all dangers. When I first entered the other House of Congress, the currency was exceedingly deranged. Most of the banks had stopped payment, and the circulating medium had then become, indeed, paper money. So soon as a state of peace enabled us, I took some part in an effort, with others, to restore the currency to a better state; and success followed that effort.

But what is meant by the "constitutional currency," about which so much is said? What species, or forms of currency, does the constitution allow, and what does it forbid? It is plain enough that this depends on what we understand by *currency*. Currency, in a large, and perhaps, in a just sense, includes not only gold and silver and bank notes, but bills of exchange also. It may include all that adjusts exchanges, and settles balances, in the operations of trade and business. But if we understand by currency the *legal money* of the country, that which constitutes a lawful tender for debts, and is the statute measure of value, then, undoubtedly, nothing is included but gold and silver. Most unquestionably there is no legal tender, and there can be no legal tender, in this country, under the authority of this Government or any other, but gold and silver, either the coinage of our own mints, or foreign coins, at rates regulated by Congress. This is a constitutional principle, perfectly plain, and of the very highest importance. The States are expressly prohibited from making any thing but gold and silver a tender in payment of debts; and, although no such express prohibition is applied to Congress, yet, as Congress has no power granted to it, in this respect, but to coin money, and to regulate the value of foreign coins, it clearly has no power to substitute paper, or any thing else, for coin, as a tender in payment of debts, and in discharge of contracts. Congress has exercised this

power, fully, in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value. The legal tender, therefore, the constitutional standard of value, is established, and cannot be overthrown. To overthrow it, would shake the whole system.

But if the constitution knows only gold and silver as a legal tender, does it follow that the constitution cannot tolerate the voluntary circulation of bank notes, convertible into gold and silver at the will of the holder, as part of the actual money of the country? Is a man not only to be entitled to demand gold and silver for every debt, but is he, or should he be, obliged to demand it in all cases? Is it, or should Government make it, unlawful to receive pay in any thing else? Such a notion is too absurd to be seriously treated. The constitutional *tender* is the thing to be preserved, and it ought to be preserved sacredly, under all circumstances. The rest remains for judicious legislation by those who have competent authority.

I have already said that Congress has never supposed itself authorized to make any thing but coin a tender, in the payment of debts, between individual and individual; but it by no means follows from this, that it may not authorize the receipt of any thing but coin in payment of debts due to the United States.

These powers are distinct, and flow from different sources. The power of coinage is a general power; a portion of sovereignty, taken from the States and conferred on Congress, for the sake both of uniformity and greater security. It is to be exercised for the benefit of all the people, by establishing a legal tender and standard of value in all transactions.

But when Congress lays duties and taxes, or disposes of the public lands, it may direct payment to be made in

whatever *medium* it pleases. The authority to lay taxes includes the power of deciding how they shall be paid; and the power granted by the constitution to dispose of the territory belonging to the United States carries with it, of course, the power of fixing not only the price, and the conditions, and time of payment, but also the *medium* of payment. Both in respect to duties and taxes, and payments for lands, it has been, accordingly, the constant practice of Congress, in its discretion, to provide for the receipt of sundry things, besides gold and silver. As early as 1797, the public stocks of the Government were made receivable for lands sold; the six per cents. at par, and other descriptions of stock in proportion. This policy had, probably, a double purpose in view—the one to sustain the price of the public stocks, and the other to hasten the sale and settlement of the lands. Other statutes have given the like receivable character to Mississippi stock, and to Virginia land scrip. So Treasury notes were made receivable for duties and taxes; and, indeed, if any such should now be found outstanding, I believe they constitute a lawful mode of payment, at the present moment, whether for duties and taxes, or for lands.

But, in regard both to taxes and payments for lands, Congress has not left the subject without complete legal regulation. It has exercised its full power. The statutes have declared what should be received, from debtors and from purchasers, and have left no ground whatever for the interference of Executive discretion, or Executive control. So far as I know, there has been no period when this subject was not subject to express legal provision. When the duty act and the tonnage act were passed, at the first session of the first Congress, an act was passed also, at the same session, containing a section which prescribed the coins, and fixed their values, in which those duties were to be paid. From that time to this,

the *medium* for the payment of public debts and dues has been a matter of fixed legal right, and not a matter of Executive discretion at all. The Secretary of the Treasury has had no more power over these laws than over other laws. He can no more change the legal mode of paying the duty than he can change the amount of the duty to be paid; or alter the legal means of paying for lands, with any more propriety than he can alter the price of the lands themselves. It would be strange, indeed, if this were not so. It would be ridiculous to say that we lived under a Government of laws, if an Executive officer may say in what currency, or medium, a man shall pay his taxes and debts to Government, and may make one rule for one man, and another rule for another. We might as well admit that the Secretary had authority to remit or give in the debt of one, while he enforced payment on the other.

I desire, sir, even at the expense of some repetition, to fix the attention of the Senate to this proposition, that Congress, having by the constitution authority to dispose of the public territory, has passed laws for the complete exercise of that power; laws which not only have fixed the price of the public lands, the manner of sales, and the time of payment, but which have fixed also, with equal precision, the *medium*, or kinds of money, or of other things, which shall be received in payment. It has neglected no part of this important trust; it has delegated no part of it; it has left no ground, not an inch, for Executive interposition.

The only question, therefore, is, what *is* the law, or what *was* the law, when the Secretary issued his order?

The Secretary considers that that which has been uniformly done for twenty years, that is to say, the receiving of payment for the public lands in the bills of specie-paying banks, is against law. He calls it an "indul-

gence," and this "indulgence" the order proposes to continue for a limited time, and in favor of a particular class of purchasers. If this were an indulgence, and against law, one might well ask, how has it happened that it should have continued so long, especially through recent years, marked by such a spirit of thorough and searching reform? It might be asked, too, if this be illegal, and an indulgence only, why continue it longer, and especially why continue it as to some, and refuse to continue it as to others?

But, sir, it is time to turn to the statute, and to see what the legal provision is. On the 30th of April, 1816, a resolution passed both Houses of Congress. It was in the common form of a joint resolution, and was approved by the President; and no one doubts, I suppose, that, for the purpose intended by it, it was as authentic and valid as a law in any other form. It provides that, "from and after the 20th day of February next, [1817,] no duties, taxes, debts, or sums of money, accruing or becoming payable to the United States, ought to be collected or received otherwise than in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, or in notes of banks which are payable in specie on demand, in the said legal currency of the United States."

This joint resolution authoritatively fixed the rights of parties paying, and the duties of officers receiving. So far as respects the notes of the Bank of the United States, it was altered by a law of the last session; but, in all other particulars, it is, as I suppose, in full force at the present moment; and as it expressly authorizes the receipt of such bank notes as are payable and paid on demand, I cannot understand how the receipt of such notes is a matter of "indulgence." We may as well say that to be allowed to pay in Treasury notes, or in foreign

coins, or, indeed, in our own gold and silver, is an indulgence, since the act places all on the same ground.

The honorable member from Missouri has, indeed, himself furnished a complete answer to the Secretary's idea; that is to say, he defends the order on grounds not only differing from, but totally inconsistent with, those assumed by the Secretary. He does not consider the receipt of bank notes hitherto, or up to the time of issuing the order, as an indulgence, but as a lawful right while it lasted. How he proves this right to be now terminated, and terminated by force of the order, I shall consider presently. I only say now, that his argument entirely deprives the Secretary of the only ground assigned by him for the Treasury order.

The Secretary directs the receivers "to receive in payment of the public lands nothing *except what is directed by the existing laws*, viz: gold and silver, and, in the proper cases, Virginia land scrip." Gold and silver, then, and, in the proper cases, Virginia land scrip, are, in the opinion of the Secretary, all that is directed to be received by the existing laws. The receipt of bank notes he considers, therefore, but an indulgence, a thing against law, to be tolerated a little longer, as to some cases, and then to be finally suppressed.

Apparently not at all satisfied with this view of the Secretary, of the ground upon which his own order must stand, the member from Missouri not only abandons it altogether, but sets up another, wholly inconsistent with it. He admits the legality of payment in such bank notes up to the date of the order itself, but insists that the Secretary of the Treasury had a right of selection, and a right of rejection also; and that, although the various modes of payment provided by the resolution of 1816 were all good and lawful, till the Secretary should make some of them otherwise, yet that, by virtue of his

power of selection or rejection, he might at any time strike one or more of them out of the list. And this power of selection or rejection he thinks he finds in the resolution of 1816 itself.

I incline to think, sir, that the Secretary will be as little satisfied with the footing on which his friend, the honorable member from Missouri, thus places his order, as that friend is with the Secretary's own ground. For my part, I think them both just half right; that is to say, both, in my humble judgment, are just so far right as they distrust and disclaim the reasoning of each other. Let me state, sir, as I understand it, the honorable member's argument. It is, that the law of 1816 gives the Secretary a selection; that it provides four different modes, or *media*, of payment; that the Secretary is to collect the revenue in one, or several, or all these four modes, or *media*, at his discretion; that all are in the disjunctive, as I think he expressed it; and that the resolution, or law, is not mandatory or conclusive in favor of any one. According to the honorable member, therefore, if the Secretary had chosen to say that our own eagles and our own dollars should no longer be receivable, whether for customs, taxes, or public lands, he had a clear right to say so, and to stop their reception.

Before a construction of so extraordinary a character be fixed on the law of 1816, something like the appearance of argument, I think, might be expected in its favor. But what is there upon which to found such an implied power in the Secretary of the Treasury? Is there a syllable in the whole law which countenances any such idea for a single moment? There clearly is not. The law was intended to provide, and does provide, in what sorts of money or other means of payment those who owe debts to the Government shall pay those debts.

It enumerates four kinds of money or other means of

payment; and can any thing be plainer than that he who has to pay may have his choice out of all four? All being equally lawful, the choice is with the payer, and not with the receiver. This would seem to be too plain either to be argued or to be denied. Other laws of the United States have made both gold and silver coins a tender in the payment of private debts. Did any man ever imagine that in that case the choice between the coins to be tendered was to lie with the party receiving? No one could ever be guilty of such an absurdity. And unless there be something in the law of 1816 itself, which either expressly, or by reasonable inference, confers a similar power on the Secretary of the Treasury in regard to public payments, is there, in the nature of things, any difference between the cases? Now, there is nothing, either in the law of 1816, or any other law, which confers any such power on the Secretary of the Treasury, either directly or indirectly, or which suggests, or intimates, any ground upon which such power might be implied. Indeed, the statement of the argument seems to me enough to confute it. It makes the law of 1816 not a rule, but the dissolution of all rule; not a law, but the abrogation of all existing laws. According to the argument, the Secretary of the Treasury had authority, not only to refuse the receipt of Treasury notes, which had been issued upon the faith of statutes expressly making them receivable for debts and duties, and notes of the Bank of the United States, which were also made receivable by the law creating the bank, but to refuse also foreign coins, and the coinage of our own mint; putting thus the legislation of Congress for five-and-twenty years at the unrestrained and absolute discretion of the Secretary of the Treasury. It appears to me quite impossible that any gentleman, on reflection, can undertake to support such a construction.

But the gentleman relies on a supposed practice, to maintain his interpretation of the law. What practice? Has any Secretary ever refused to receive the notes of specie-paying banks, either at the custom-house or the land offices, for a single hour? Never. Has any Secretary presumed to strike foreign coin, or Treasury notes, or our own coin, out of the list of receivables? Such an idea certainly never entered into the head of any Secretary. The gentleman argues that the Treasury has made discriminations; but what discriminations? I suppose the whole truth to be simply this: that, admitting at all times the right of the party paying to pay in notes of specie-paying banks, the collectors and receivers have not been held bound to receive notes of distant banks of which they knew nothing, and could not judge, therefore, whether their notes came within the law. Those collectors and receivers were bound to receive the bills of specie-paying banks; but, as that duty arose from the fact that the notes tendered were the notes of specie-paying banks, that fact, if not notorious or already known to them, must be made known, with reasonable certainty, before the duty to receive them became imperative. I suppose there may have been Treasury orders, regulating the conduct of collectors and receivers in this particular. Any orders which went further than this would go beyond the law.

The honorable member quotes one of the by-laws of the late Bank of the United States; but what has that to do with the subject? Does the honorable member think that the by-laws of the late bank were *laws* to the people of the United States? The bank was under no obligation to receive any notes on deposite except its own. It might, therefore, make just such an arrangement with the Treasury as it saw fit, if it saw fit to make any. But neither the Treasury, nor the bank, nor both

together, could do away with the written letter of an act of Congress ; nor did either undertake so to do.

But, sir, what have been the gentleman's own opinions on this subject heretofore? Has he always been of opinion that the Secretary enjoyed this power of selection, as he now calls it, under the law of 1816? Has he heretofore looked upon the various provisions of that law only as so many moveable and shifting parts, to be thrown into gear and out of gear by the mere touch of the Secretary's hand? Certainly, sir, he has not thought so; certainly he has looked upon that law as fixed, definite, and beyond Executive power, as clearly as other laws ; as a statute, to be repealed or modified only by another statute. No longer ago than the 23d day of last April, the honorable member introduced a resolution into the Senate, in the following words :

"*Resolved*, That, from and after the —— day of ——, in the year 1836, nothing but gold and silver coin ought to be received in payment for public lands ; and that the Committee on Public Lands be instructed to report a bill accordingly."

And now, sir, I ask why the honorable member moved here for a bill and a law, if the whole matter was, in his opinion, within the power of the Secretary of the Treasury?

The Senate did not adopt this resolution. A day or two after its introduction, and when some little discussion had been had upon it, a motion to lay it on the table prevailed, hardly opposed, I think, except by the gentleman's own vote. A few weeks after this disposition had been made of this resolution, the session came to a close, and, seven days after the close of the session, the Treasury order made its appearance.

But this is not all. There is higher authority than even that of the honorable member. Looking to the expiration of the charter of the Bank of the United States,

the President, in his annual message in December last, said it was incumbent on Congress to discontinue, by law, the receipt of the bills of that bank in payment of the public revenue. Now, as the charter was to expire on the 3d of March, there was nothing to make its bills receivable after that period, except the law of 1816. To strike the provision respecting notes of the bank out of that law, another law was indeed necessary, according to my understanding; but I do not conceive how it should be thought necessary, upon the construction of the honorable member. Both Houses being of opinion, however, that the thing could not be done without law, an act was passed for that purpose, and was approved by the President. Here, then, sir, is the gentleman's own authority, the authority of the President, and the authority of both Houses of Congress, for saying that nothing contained in the law of 1816 can be thrust out of it by any other power than the power of a subsequent statute.

I am, therefore, of opinion that the Treasury order of the 11th of July is against the plain words and meaning of the law of 1816; against the whole practice of the Government under that law; against the honorable gentleman's own opinion, as expressed in his resolution of the 23d of April; and not reconcileable with the necessity which was supposed to exist for the passage of the act of last session.

On this occasion, I have heard of no attempt to justify the order on the ground of any other law or act, but the act of 1816. When the order was published, however, it was accompanied with an exposition, apparently half-official, which looked to the land laws as the Secretary's source of power, and which took no notice at all of the law of 1816. The land law referred to was the act of 1820; but it turns out, upon examination, that there is nothing at all in that law to support the order, or give it

any countenance whatever. The only clause in it which could be supposed to have the slightest reference to the subject is the proviso in the fourth section. That section provides for the sale of such lands as, having been once sold on credit, should revert or become forfeited to the United States through failure of payment; and the proviso declares that no such lands shall be again sold on any other terms than those of "cash payment." These words, "cash payment," have been seized upon, as if they had wrought an entire change in the important provisions of the law of 1816, and already established an exclusive specie payment for lands. The idea is too futile for serious refutation. In the first place, the whole section applies only to forfeited lands; but the truth is, the term "cash payment" means only payment down, in contradistinction to credit, which had formerly been allowed; just as the words in the tariff act of July, 1832, mean payment down, instead of payment secured by bonds, when it says that the duties on certain articles shall be paid in "cash."

As to the second section of the land law of 1820, which was set forth with great formality in the exposition to which I have referred, as furnishing authority for the Secretary's order, there is not a word in it having any such tendency; not a syllable which has any application to the matter. That section simply declares that, after the first day of July in that year, every purchaser of land at public sale shall, on the day of purchase, make a *complete payment therefor;* and the purchaser at private sale shall produce a receipt for the amount of the *purchase money* on any tract, before he shall enter the same at the land office. This is all. It does not say *how* the purchaser shall make *complete payment*, nor in what currency the purchase money shall be received. It is quite evident, therefore, that that section lends the order no support whatever.

The defence of the order, then, stands thus: The Secretary founds it upon the idea that nothing but gold and silver was ever lawfully receivable, and that the receipt of bank bills has been all along an "*indulgence*" against law. For this opinion he gives no reasons.

The honorable member from Missouri rejects this doctrine; he admits the receipt of bank notes to have been lawful until made unlawful by the order itself; and insists that the Secretary's power of stopping their further receipt arises *under* the law of 1816, and is an authority derived from it. But then, the long and half-official exposition which accompanied the publication of the order has no faith in the law of 1816 as a source of power, but makes a parade of a totally and perfectly inapplicable section, out of the land law of 1820. Grounds of defence, so totally inconsistent, cannot all be sound, but they may be all unsound; and whether they be so or not, is a question which I would willingly leave to the decision of any man of good sense and honest judgment. I take leave of this part of the case for the present. I may pause at least, I hope, until those who defend the order shall be better agreed on what ground to place it.

Mr. President, the subject of the currency is so important, so delicate, and, in my judgment, surrounded, at the present moment, with so much both of difficulty and of danger, that I am desirous, before making the few observations which I intend, on the existing condition of things and its causes, to avoid all misapprehension, by a general statement of my opinions respecting that subject.

I am certainly of opinion, then, that gold and silver, at rates fixed by Congress, constitute the legal standard of value in this country; and that neither Congress nor any State has authority to establish any other standard, or to displace this. But I am also of opinion that an exclusive circulation of gold and silver is a thing absolutely im-

practicable; and, if practicable, not at all to be desired; inasmuch as its effect would be to abolish credit, to repress the enterprise, and diminish the earnings of the industrious classes, and to produce, faster and sooner than any thing else in this country can produce, a moneyed aristocracy.

I am of opinion that a mixed currency, partly coin and partly bank notes, the notes not issued in excess, and always convertible into specie at the will of the holder, is, in the present state of society, the best practical currency—always remembering, however, that bills of exchange perform a great part of the duty of currency, and, therefore, that the state of domestic exchanges is always a matter of high importance and great actual bearing on commercial business.

I admit that a currency partly composed of bank notes has always a liability, and often a tendency, to excess; and that it requires the constant care and oversight of Government.

I am of opinion, even, that the convertibility of bank notes into gold and silver, although it be a necessary guard, is not an absolute security against occasional excess of paper issues.

I believe, even, that the confining of discounts to such notes and bills as represent real transactions of purchase and sale, or to real business paper, as it is called, though generally a sufficient check, is not always so; because I believe there is sometimes such a thing as over-trading, or over-production.

What, then, it will be asked, *is* a sufficient check? I can only repeat what I have before said, that it is a subject which requires the constant care, watchfulness, and superintendence of Government. But our misfortune is, that we have withdrawn all care and all superintendence from the whole subject. We have surrendered the whole

matter to eight-and-twenty States and Territories. With the power of coinage, and the power and duty of regulating commerce, both external and internal, this Government has little more control over the mass of money which circulates in the country, than a foreign Government. Upon the expiration of the charter of the Bank of the United States, new banks were created by the States. Sixty or eighty millions of banking capital have thus been added to the mass since 1832. All this it was easy to foresee: it was all foreseen, and all foretold. The wonder only is, that the evil has not already become greater than it is; and it would have been greater, and we should have had such an excess as would perhaps have depreciated the currency, had it not been for the extraordinary prosperity of the country. No very great excess, I believe, has as yet in fact happened, or rather no very great excess does now exist. There are sufficient evidences, I think, of this.

In the first place, the amount of specie in the country is far greater than was ever known before, and it is not exported. In the next place, as all the banks as yet maintain their credit, and all pay specie on demand, the whole circulation is, in effect, equivalent to a specie circulation; and the state of the foreign exchanges shows that the value of our money, in the mass, is not depreciated, since it may be transferred without any loss into the currency of other countries. Our money, therefore, is as good as the money of other countries. If it had fallen below the value of money abroad, the rates of exchange would instantly show that fact. There has been, therefore, as yet, or at least there exists at present, no considerable depreciation of money. If, then, it be asked, what keeps up the value of money, in this vast and sudden expansion and increase of it, I have already given the answer which appears to me to be the true one. It is

kept up by an equally vast and sudden increase in the property of the country, and in the value of that property, intrinsic as well as marketable. None of us, I think, have estimated this increase high enough, and for that reason we have all been looking for an earlier fall in prices. It seems obvious to me, that an augmentation in the value of property, far exceeding all former experience in any country, even our own, has taken place in the United States within the last few years. The public lands may furnish one instance of this rapid increase. It was estimated last session, by my honorable friend from Ohio, [Mr. EWING,] that the demands of actual settlers for lands for settlement were eight millions of acres per annum, on an average of some years. These eight millions, if taken up at Government prices at private entry, would cost $10,000,000. Now, partly by cultivation, but more by the continued rush of emigration, both from Europe and the Atlantic coast, the value of these ten millions in a very few years springs up to forty millions; that is to say, lands taken up at one dollar and a quarter an acre, soon become worth five dollars an acre for actual cultivation, and in intrinsic value. And it is to be remembered that these lands are alienable, and saleable, with as little of form and ceremony, almost, as if they were goods and chattels. Now, if we make an estimate, not merely on the eight millions of acres required for actual settlement, but on the whole quantity selected and taken up annually, we shall see something of the addition to the whole amount of property which accrues annually from the public lands. A rise has taken place, too, though less striking, in the value of other lands in the country; and property, in goods, merchandise, products, and other forms, is rapidly augmented, also, both in quantity and value, by the industry and skill of the people, and the extension and most successful use of machinery.

Another most important element in the general estimate of the progress of wealth in the country is the wonderful annual increase of the cotton crops, and the prices which the article bears. Last year's crop reached, probably, to eighty millions of dollars. Now, most of the cotton produced in the United States is sold, once, at least, in the country, and much of it many times. The bills drawn against it when shipped, either for Europe or the Atlantic ports, are usually cashed at the place of drawing, commonly, no doubt, by means of bank notes, or bank credits.

I put all these cases but as instances showing the increased value of property and amount of business in the country, and accounting, therefore, for an expansion of the circulation, without supposing great excess; since it is obvious that the circulating money of a country naturally bears a proportion to the whole mass of property, and to the number and amount of business transactions.

But there is another cause of a less favorable character, which may have had its effect already; or, if not, is very likely to have it hereafter, in augmenting the circulation of bank notes: I mean the obstruction and embarrassment of the domestic exchanges. In a proper and natural state of affairs, the place of currency, or money, is filled to a great extent by bills of exchange; and this continues to be the case, so long as the rates of exchange remain low and steady. Nobody, for example, will send bank notes or specie from New York to New Orleans, if he can buy a good bill at par, or near par. But when exchange becomes disturbed, when rates rise and fluctuate, bills cease to be able to perform this function, and then bank notes begin to be sent about from place to place, in quantities, to supply the place of bills of exchange, in payment of debts and balances. All such, and all other, derangements and distractions in the free

course of domestic exchanges, necessarily produce an unnatural and considerable increase of the circulation. So far as our circulation has been, or may be, augmented by this cause, so far both the cause and the effect are to be deplored. In my opinion, we have certainly reason to fear this excess hereafter. What is to prevent it? Is it possible that so many State banks, so far apart, so unknown to each other, with no common objects, no common principles of discount, and no general regulation whatever, should act so much in concert, and upon system, as to maintain the currency of the country steady, without either unjust expansion or unnecessary contraction? I believe it is not possible. I believe many of those who insist so much on hard-money circulation believe this also; and that they press their impracticable hard-money notions, from a consciousness that the discontinuance of a national institution has brought the country into a condition in which it is threatened with issues of irredeemable paper.

Our present evil, however, is of a different kind. It is, indeed, somewhat novel and anomalous. With high general prosperity, good crops, generally speaking, an abundance of the precious metals, and a favorable state of foreign exchanges, men of business have yet felt, for some months, an unprecedented scarcity of money. That is the state of things; its cause, in my opinion, is expressed in a few words: *it is the derangement of internal intercourse, and internal exchange.* Our difficulty is not exhaustion, but obstruction. Every body has means enough, but nobody can use his means. All the usual channels of commercial dealing are blocked up. The manufacturers of the North cannot obtain from the South the proceeds of the sales of their articles; the South finds money scarce, too, in the midst of its abundant exports.

In a country so extensive and so busy, every merchant's means become more or less dispersed, and exist in various places in the shape of debts. Exchange is the instrument, the wand, by which he reaches forth to these means, wherever they are, and uses them for his immediate and daily purposes. But this instrument is now broken. He can no longer touch with it his distant debt, and make that debt present money. He seeks, therefore, for expedients; borrows money, if he can, till times change; pays enormous rates of interest to maintain credit; thinks things, when at the worst, must soon change; looks for reaction, and sacrifices to capitalists, to brokers, and money-lenders, the hard earnings of years, rather than fail to fulfil his commercial engagements. It is a happy and blessed hour, this, for greedy capital and grasping brokerage; an excruciating one for honest industry. The very rich grow every day richer; the laborious and industrious, every day poorer. Meantime, the highways of commercial dealing and exchanges grow more and more founderous, or are all breaking up. Specie, always most useful as the basis of a circulation, when most in repose, gets upon the move. Any time the last four months it might have happened, and many times doubtless it has happened, that steamboats from New York, carrying specie to Boston, have passed in the sound steamboats from Boston carrying specie to New York. Boating and carting money, backward and forward, becomes the order of the day; and there are those who, the more they hear of specie, hauled and transported about from place to place, in masses, the more they flatter themselves with the idea that the country is returning rapidly to a safe and happy specie circulation!

There may be other minor causes. They are not worth enumerating. The great and immediate origin of evil is disturbance in the exchange; and, in my opin-

ion, this disturbance has been caused by the agency of the Government itself. The fifty millions in the Treasury have been agitated by unnecessary transfers. As a large portion of this sum was to be deposited with the States at the beninning of next year, the Secretary seems to have thought it necessary to cut up, divide, and remove assigned portions of it before the time came. It is this idea of *removal* that has wrought the mischief. In consequence of this, money has been taken from places of active commercial business, where it was much needed and all used, and carried to places where it was not needed, and could not be used.

The agricultural State of Indiana, for example, is full of specie; the highly commercial and manufacturing State of Massachusetts is severely drained. In the mean time, the money in Indiana *cannot be used.* It is waiting for the new year. The moment the Treasury grasp is let loose from it, it will tend again to the great marts of business; that is to say, the restoration of the natural state of things will begin to correct the evil of arbitrary and artificial financial arrangements. The money will go back to the places where it is wanted. It will seek its level, and its place of usefulness. In my opinion, the proper execution of the deposite law did not make it at all necessary for the Treasury to order these previous local changes. The law itself is not answerable for the inconvenience which has resulted. When the time came, the States, all of them, would have been very glad to receive the money where it was. They wanted but an order for it. They desired no carting. Can any thing be more preposterous than to transfer specie from New York to Nashville, when to a man in Nashville specie in New York is two per cent. more valuable than if he had it in his own house? There is always a tendency in specie, not actually in the pockets of the people, to-

wards the great marts and places of exchange. Those who want it, want it there. There the great transactions of commerce are performed, and there the means of those transactions naturally exist, simply because there they are required. Now, what reason was there for disturbing the revenue, thus lying where it had been collected, and thus mingled with the commerce of the country? Why laboriously drag it off, far from its place of useful action, to places where it was not wanted, and could do no good, and there hold it, under the key of the Treasury?

This anticipation of the operation of the deposite law, this attempt at *local* distribution, this arbitrary system of transfer, which seems to forget, at once, the necessities of commerce, and the real uses of money, I regard as the direct and prime cause of the pressure felt by the community. But the Treasury order came powerfully in aid of this. This order checked the use of bank notes in the West, and made another loud call for specie. The specie, therefore, is transferred to the West, to pay for lands; being received for lands, it becomes public revenue, is brought to the East for expenditure, and passes, on its way, other quantities going West, to buy lands also, and in the same way to return again to the East. Now, sir, how does all this improve the currency? What fraud does it prevent, what speculation does it arrest, what monopoly does it suppress? I am very much mistaken if all this does not embarrass the small purchaser of land much more than the large one. He who has fifty or a hundred thousand dollars to lay out, may collect his specie, not without some charge, it is true, but without a very heavy charge. But, if there be a man, with a hundred or two dollars, waiting to take up a small parcel for actual settlement, and his money be in bank notes, and the bank, perhaps, at a great dis-

tance, what has he to do! He must send far to exchange a little money; or else he must submit to any brokerage which he may find established in the neighborhood of the land office. Upon the local operation of this order, however, I say the less, as on that point Western gentlemen are better informed and better judges.

I am willing to hope, sir, and, indeed, I do hope and believe, that when the first payment or deposite under the act of last session shall have been made, and the States shall have found some use and employment for the money, and when this unnatural transfer system shall cease, money will seek its natural channels, and commercial business resume, in some measure, its accustomed habits. But this Treasury order will be a disturbing agent, every hour it is suffered to exist. Indeed, it cannot be allowed to exist long. It is not possible that the West can submit to a measure at once so injurious and so partial. Hard money at the land office, and bank notes at the custom-house, must make men open their eyes after a while, whatever degree of political confidence weighs down their lids. I look upon it, therefore, as certain, that the order will not be permitted long to remain in force.

If I am now asked, sir, whether, supposing this order to be rescinded, and the deposite law executed, and the transfers discontinued, affairs will return to their former state, I answer, with all candor, that though I look, in those events, for a great improvement, I do not expect to see the domestic exchanges and the currency return entirely to their former state. I do not believe there is any agency at work, at present, competent to bring about this desirable end. In other words, I do not believe that the deposite banks, however well administered, can fully supply the place of a national institution; and I am very

much mistaken if intelligent men connected with those institutions themselves believe any such thing. I find that, in 1828, 1829, 1830, 1831, and 1832, exchange at New York, on the Southern and Southwestern cities, averaged three-fourths of one per centum discount, or thereabouts. Now, I doubt whether the most sanguine of those connected with the deposite banks expect to be able, through their means, to bring back exchanges to that state, or any thing like it.

The deposite banks are separate and distinct institutions, many of them strangers to each other, without full confidence in each other, and all acting without uniformity of purpose. Their objects are distinct, their capitals distinct, their interests distinct. If one of them has connexion with some others, it yet has no unbroken chain of connexion. They have nothing which runs through the whole circle of the exchanges, as that circle is drawn through the great commercial cities of the Union. They can only act in the business of exchange to the extent of funds, or not much beyond it, actually existing. A national institution, with branches or agencies at different points, may deal in exchanges between these points in amounts to meet the convenience of the public, without reference to the fact of the existence of local funds. One institution, therefore, with branches, has facilities which never can be possessed by different institutions, however honorably or ably conducted.

For myself, I am of the same opinion as formerly, that for the administration of the finances of the country, for the facility of internal exchanges, and for the due control and regulation of the actual currency, a national institution, under proper guards and limits, is by far the best means within our reach. And I am, as I always have been, of opinion, that Congress, having the power of regulating commerce, and the power over the coinage,

has power, also, which it is bound to exercise, by lawful means, over that currency in which the revenue is to be collected, and which is to carry on that commerce, external and internal, which is thus committed to its regulation and protection. All the duties of this Government are, in my judgment, not fulfilled, while it leaves these great interests, thus confided to its own care, to the discretion of others, or to the results of chance. But I will not go farther into these subjects at the present time.

Mr. President, I am indifferent to the form in which the Treasury order may be done away. Gentlemen may please themselves in the mode. I shall be satisfied with the substance. Believing it to be both illegal and injurious, I shall vote to rescind, to revoke, to abolish, to supersede, to do any thing which may have the effect of terminating its existence.

On a subsequent day, Mr. STRANGE having alluded to Mr. WEBSTER's speech in 1816,

Mr. WEBSTER said, I will take this occasion, as probably no more fit one may occur, to say a few words in consequence of the reference which has so frequently been made, during the course of this debate, to the introduction by myself of the joint resolution of 1816 into the other House of Congress, and to my observations then made on that measure. I said nothing on that occasion without deliberation; nothing which I do not now embrace as sound policy; nothing which, as I suppose, is in the least degree inconsistent with the principles which I at this time maintain; and I repel, as wholly unfounded, any intimation that any thing like incongruity or inconsistency is to be found in the sentiments and opinions delivered by me on the two occasions. No

such inconsistency, indeed, has been, so far as I know, directly charged; but the repeated quotation of my former remarks might lead to the inference that such inconsistency was intended to be intimated. The resolution of 1816 was accompanied, as originally introduced by me, with an introductory resolution, in the form of a preamble, setting forth the reasons on which the proposed measure was founded. The operations of the Treasury had at that time become greatly deranged by the war. The duties at the custom-houses were received, in many places, in the paper of non-specie paying banks; and, as there was a great variety and difference in the value of the notes of those banks, there was, of consequence, a real difference in the amount of duties paid in different ports. In some cities the discount upon those notes, to bring them to the value of legal coin, was five per cent. on their nominal value; in other places ten per cent., and in some, indeed, as high as twenty per cent. That was the fact in this city. In the years 1814 and 1815, bills on Boston could often not be had here under a premium of twenty per cent.; since all the paper of the Boston banks was equal to specie, and the paper here depreciated to the extent stated. This was all in the course of things, as some banks had suspended specie payments and others had not; and as the duties at the custom-house were received in the paper chiefly of the local banks, the result was, in effect, a different rate of duties in different places, in plain violation of the constitution and of all justice. And this difference was great enough to turn the whole commerce of the country from the Northern to the Southern States.

It was under these circumstances, and at this time, that the resolution of 1816 was introduced by me, with a sort of preamble, alleging the impropriety, inequality, and illegality of this state of things; and what was its

object? Simply to bring back the administration of the finances to the rule of law. The law was plain. There was no authority, not a particle, for receiving those bank notes. There was, in truth, no discretion vested in the Secretary of the Treasury as to what should be received in payment for duties. All this was settled by plain statute provisions. The difficulty arose from no deficiency of enactments by Congress. The law made it the duty of the Secretary to receive, in payments to the United States, the gold and silver coins of the United States, certain foreign coins, and Treasury notes, and notes of the Bank of the United States then lately incorporated; and nothing else. But we had just emerged from the war. The banks had suspended specie payments in consequence of that war; and the Treasury was said to have acted under an unavoidable necessity, a sort of *vis major*, which could not be resisted. This was the sole ground on which its conduct was justified or excused. In the House of Representatives, the introductory resolution or preamble was, however, stricken out, with my consent, which I readily gave, as it was supposed to imply a reproach on the Secretary of the Treasury; and I had not the least intention of casting any thing like reproach upon that officer, for a practice growing out of the absolute necessity of the case, as he and others supposed. All, however, agreed that the mode of paying duties, then in practice, was not according to law. The object of the resolution, as I have already said, was to bring the practice back to that standard; and on introducing the resolution, I had no other or further view. By recurrence to the resolution, as originally introduced, it will be seen that it did not contemplate any enlargement of the means of payment. It did not embrace the notes of State banks at all. It confined all payments to coin, Treasury notes, and notes of

the Bank of the United States. But this was esteemed too strict and severe; the House of Representatives felt a disposition to legalize the receipt of the notes of specie-paying State banks; and to meet this feeling, the resolution was amended and enlarged, so as to embrace the notes of specie-paying banks. The resolution, as thus amended, embraced two objects, both clear and distinct; first, to compel the Treasury to confine its receipts to such sorts of money as were authorized and sanctioned by law; second, to increase the number of those sorts, or to enlarge the legal means of payment, by making it lawful to receive the notes of specie-paying banks, payable and paid on demand. Both these objects were accomplished by the resolution, which, as amended, passed both Houses, and became the law of the land.

Now, sir, the question is not whether such a legalizing of bank notes was safe or dangerous, wise or unwise. Congress saw fit, in fact, to sanction their reception, and that is enough. From that moment it became the legal right of every debtor, and every purchaser of land, to pay in those notes. And, sir, all I said then, I say now, viz: that it is a subject to be provided for, and which always has been provided for, by law; that it has been, is, and ought to be, above the reach of Executive discretion; that, by the law, as it stood before 1816, notes of State banks were not receivable; that, by the law of 1816, they were made receivable, and put on the same ground with coins, notes of the Bank of the United States, and Treasury notes. And what is the ground I now stand on? Simply this, that this is a matter of law, and not of discretion; that the Secretary has no more right, now, to strike any thing out of the law that is in it, than he had, before 1816, to put any thing into the law which was not in it. That was my doctrine then; that

is my doctrine now. Where is any inconsistency? At that time the Secretary was receiving bank notes contrary to law; now he is refusing bank notes contrary to law. I was for correcting the illegal proceeding then, and I am for correcting the illegal proceeding now. I take back nothing of what I then said—not a syllable. I believe now as I did then; and, indeed, I believe more firmly, as a man is not likely, as he advances in years and observation, to grow less anxious on the subject of a stable and uniform currency, or less resolute to fix it on a permanent basis of law. I felt then the necessity of maintaining a legal currency in payment of the dues of the Government; I feel the same necessity now. At that time, something was admitted in payment which was not in the statute; at this time, something is refused which is in the statute. In both cases the law has been departed from; and in both cases I was, and am, for re-establishing its authority.

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